

## **Penalty Matrix Draft for Sponsors of Apprenticeship**

This is a penalty matrix formulated by the Division of Apprentice Training to provide corrective measures and/or penalties for apprenticeship violations. The matrix will be assessed fairly, regardless of union or open shop sponsorship. Because the vast majority of construction sponsors attempt to conduct business “as legally as possible”, there has to be in place a matrix that will deal with those sponsors that repeatedly violate the apprenticeship laws.

This has not been an easy process. Violations come in all sorts of sizes, shapes, degrees, levels, severity, and graduations. What looks like an easy penalty to fit the violation turned into a convolution of “what ifs”, “how many”, or “how about”?

This matrix will be available for your comments and criticisms for a 60-day period. After which we will make the necessary additions, subtractions, and changes and re-place the draft with a final Division of Apprentice Training Penalty Matrix Policy. Please participate in this exercise. You, the sponsor can help determine not only the penalties but the severity as well. You, the sponsor will be the one who is affected by the matrix.

### **Basic Penalty Structure**

#### **First Violation**

#### **One Month Suspension or Apprenticeship Do's and Don'ts Class Attendance**

All new sponsors of apprenticeship will be encouraged to participate in the Do's and Don'ts training session provided by the Division of Apprentice Training, The Attorney General's Fair Labor Division, and Prevailing Wage. These sessions are currently provided twice yearly and cover the sponsor's responsibilities concerning prevailing wage work. We hope to present them more frequently using DVD's.

Attendance of Do's and Don'ts will nullify the First Violation if it (violation) occurs before attendance. Sponsors can attend as many seminars as they like, but there will only be a one-time nullification of the First Violation.

If the first violation occurs after the sponsor has attended the seminar, the violation will stand and the sponsor must provide 18 months of violation free activity before it begins at “0” again.

The time frame for penalty assessment is continual, unless the sponsor shows an 18 month violation free period. In other words, after a hearing violation finding against a sponsor occurs, the sponsor can have 18 continuous months without a violation and all penalties will be documented but forgiven and the sponsor begins at “0” again.

**Second Violation**

**Two Month Suspension**

**Third Violation**

**Six Month Suspension**

**Fourth Violation**

**One Year Suspension**

**Fifth Violation**

**Get Out of the Apprentice Business!!**

**No construction sponsor will be suspended without a hearing, per CMR Ch 7.08 (2) (a)**

## **Apprentice Related Violations**

The following are most but not all apprentice related violations. Enforcement of these violations is through the Division of Apprentice Training.

- Apprentice working alone or out of ratio
- Apprentice working out of their registered trade
- Apprentice working without an identification card or an apprentice working with an invalid apprentice identification card
- Sponsors or JATC or JAC sponsors not supplying copies of apprentice identification cards when submitting certified payrolls
- Sponsor using “experienced” workers as apprentices (experienced workers can be registered if they have not worked the full duration of the trade and could not be registered because of ratio issues)
- Not responding to a hearing request
- Refusal to sign Penalty Matrix Finding Form
- Related Instruction violations

If a sponsor is found in violation of an apprentice law or regulation, DAT expects the sponsor to sign a form indicating that they understand the violations and have done or

will do corrective measures to prevent further violations. Refusal to sign will cause a strike to be applied to that sponsor.

## **Related Instruction Violations**

Related instruction penalties will count as a strike in the new penalty matrix. Failure to adhere to related instruction laws and regulations will result in a hearing. Sponsors that do not respond to a hearing request or respond and are found in violation after a hearing will incur a strike against them and an automatic **six month suspension** will be imposed.

## **Attorney General Wage Violations**

Prevailing Wage violations are the purview of the Attorney General's Office. As such, any wage violations will be prosecuted by the Attorney General's Office.

Most wage violations will be accompanied by an apprentice violation (working out of ratio or working alone, etc.). If the sponsor is found guilty of a wage violation which is the result of an apprentice infraction the wage violation is not considered a strike against the sponsor. If the wage violation is a stand alone, not accompanied by an apprentice violation then it will be considered a strike against the sponsor.